

## MARINE ADVISORY BOARD

July 7, 2005 – 7:00 P.M.

CITY HALL

CITY COMMISSION CONFERENCE ROOM – EIGHTH FLOOR

100 North Andrews Avenue

Fort Lauderdale, Florida

<b>Board Members</b>	Present	Cumulative from 5/01/05	
	Absent	(P)	(A)
Randolph Adams	A	P-2	A-1
John Baker	P	P-2	A-1
Joan Brochu	P	P-2	A-1
Ryan Campbell	A	P-2	A-1
Richard Duncan	P	P-3	A-0
Joseph Hessmann	P	P-3	A-0
Heather Keith	P	P-1	A-0
Roger McKee	A	P-2	A-1
Norbert McLaughlin	P	P-3	A-0
Robert Sadowski	A	P-2	A-1
Rick Schulze	P	P-1	A-2
John Terrill, Chairman	P	P-3	A-0
Stephen Tilbrook	P	P-3	A-0
Dr. Geraldine Udell, Vice Chair	A	P-2	A-1
Eugene Zorovich	P	P-2	A-1

### **Staff**

Jamie Hart, Supervisor of Marine Facilities

Bruce Larkin, Director of Business Enterprises

Officer John Lefferts, Fort Lauderdale Marine Police Unit

Marlene Kimble, Downtown Facilities Dockmaster

Laura Voet, Aquatics Complex Manager

Breck Ballou, Fort Lauderdale Fire and Rescue Captain

### **Visitors**

Robert Bekoff

Robert Ross

## **I. Call to Order/Roll Call**

The July 7, 2005 meeting of the Marine Advisory Board was called for order at 7:10 P.M. by Chair Terrill. A quorum was achieved with ten board members present.

## **II. Approval of Minutes – June 2, 2005**

The minutes of the June 2, 2005 meeting were reviewed. There were no corrections, deletions, or additions.

A motion was made by **Mr. Baker** and seconded by **Mr. Hessmann** to accept the minutes as written. A vote was taken and the motion carried unanimously.

## **III. Introduction of New Members**

**Chair Terrill** introduced and welcomed Heather Keith, who has served previously on this Board, and for several years served as Chairperson. Ms. Keith, a local attorney, resides in Shady Banks. She gave the Board a brief personal background and pledged to support the continued use of the waterways and marina development.

## **IV. Report**

### **a. Waterway Crime and Boating Safety, Officer J. Lefferts**

Officer Lefferts advised the Board that last month there were two boating accidents resulting in property damage, both minor. There were five vessel burglaries reported. Officer Lefferts was not able to identify the exact locations at this time, although several occurred in Las Olas Isles.

## **V. Discussion on Waterbus Docking Terminal Site** **. Marine Advisory Board**

**Chair Terrill** passed out a timeline which outlined the order of events as they have occurred to date with regard to this issue.

- **October 2004** – applicant requested update on Las Olas Marina and 17<sup>th</sup> Street site.

- **December 2004** – applicant presents proposal for S.E. 17<sup>th</sup> St. site. This Board gave unanimous support; however, neighborhood opposition prompted a rejection by the City Commission.

- **April 2005** – the City Manager directed staff to identify alternate locations.

- **June 2005** – This Board was advised of 7 possible locations, with no priorities stated and no discussion of a change to the submerged land lease. Two weeks later staff submitted a formal request to the Department of Environmental Protection to modify the submerged land lease. On June 21<sup>st</sup> the City Commission met to discuss only the Las Olas Marina as a proposed site. The City Commission directed staff to continue with their efforts to change the submerged land lease, accepted a proposed bulk rate discount as promulgated by Mr. Larkin, and directed the City Manager to bring this item back to the Marine Advisory Board for further consideration.

**Mr. Larkin** noted that the backup material contained the memo that was presented to the City Commission. He advised that the City Commission is anxious to find a way to retain the Waterbus, considering it to be an amenity to the residents and tourists of Fort Lauderdale. A permanent site at the port is preferred but that option will take time to explore. In the meantime a temporary site is needed to accommodate the Waterbus vessels which will lose their lease in the very near future. It is desired to find a location that can accommodate the number of craft needed and will be a location the City has control over, and does not cost the City or marine facilities any net loss in revenue. After meetings were held with the City Manager, the Commissioners, and staff it was their opinion that the Las Olas Marina site might work best for the city. Mr. Larkin studied revenue figures for past years by slip, pier, configuration, environmental impact, recreational vs. commercial impact, and season. This scrutiny produced calculations of potential loss or gain which were presented to the City Commission. The final result was to use the docks at the Las Olas Marina and charge the Waterbus \$600 per vessel, or \$115,200 annually, with a commitment to provide in-kind services to the City in the amount of \$18,000 a year. He said

that the solution in terms of revenue would make the city whole and then some. In order to accommodate the Waterbus at the marina, it would be necessary to modify the submerged land lease. That process takes approximately 90 days. Mr. Hart advised that our submittal was referred back for more information. It was the City Commission's consensus and direction that staff should continue with this process, and in the interim have the Waterbus operate out of Bahia Mar as negotiated by Mr. Hart. This matter was then referred back to the Marine Advisory Board for further input.

**Mr. Schulze** inquired why the Las Olas site was chosen when there are six other sites available. He suggested a closer look at site #6, New River Village, which has been losing revenue for some time. Mr. Larkin answered that all the sites were presented to the City Commission with their respective pros and cons. The Las Olas site was chosen as the best fit overall as a temporary solution for up to six months. The New River Village site could not accommodate all of the vessels. **Mr. Schulze** added that it sounded as though this site was being proposed as a permanent site. Mr. Larkin advised that he has not been advised of anything other than looking for a temporary site while the port site is being explored. **Mr. Schulze** has a concern about the loss of revenue to the city by using the Las Olas Marina as opposed to using site #6 which could use an infusion of revenue. Mr. Larkin reiterated that the negotiated rate does not involve lost revenue for the city. **Mr. Schulze** would like to know before the Board is asked to Vote what the financial loss for site #6 is projected to be. Mr. Hart noted that at one time he had made a report on this issue and he recalls the loss being over \$100,000. He noted that a further analysis of that marina is planned.

**Mr. Zorovich** added that his major concern was the sea grass growing season. It is his opinion that the actual loss of revenue figure is difficult to project. Mr. Larkin noted that all we can do is look at what was done in a typical year, make assumptions, and try to estimate. The fact that vessels may be turned away more often than they previously were is an intangible issue. Mr. Hart added that the Waterbus does not have vessels docked during the day to shade the sea grass. Mr. Larkin added that it is illogical to limit the number of vessels to 40 because of sea grass when there are no distinctions being made between the vessel sizes.

**Mr. Baker** commented that there are currently huge parking issues on the South New River sites. Employee and passenger parking spots would have to be accommodated wherever the Waterbus ends up relocating.

**Ms. Keith's** concern is access for docking at our signature marina. Although the City might not lose money with this proposed deal, consider what the loss of revenue will be from turning away tourists and guests who, along with their crew, spend money here. **Ms. Keith** recalls marketing this marina as a draw to our city. She added that waterfront space was limited in this area and the more we reduce it, the more boaters will go elsewhere. She asked what the occupancy rates were over the last three years on dock six. If the boats that are showing up can't be accommodated on the proposed dock, then it's not such a concern. She added that the Waterbus is an important access to the waterways for people that don't have boats and added that it is important that we find a way to keep the business in the area. Mr. Larkin answered that he does not have a 3-year occupancy rate available at this time. He noted that last year was studied month by month in an overall manner at the entire marina and upon average we were not exceeding the 40 boat limit during the sea grass season. but that's not to say that we have not turned away vessels on certain days. **Ms. Keith** noted that days are not a concern as much as the overall annual turn-away figures. She also questioned the slip sizes on the dock. Mr. Hart answered that a 130-foot vessel could be accommodated at the pier dock. The interior dock can handle up to a 65-foot boat. **Ms. Keith** commented that until the restriction is overturned, the city has to assume the restriction will apply during the sea grass season. Mr. Hart noted that slip management plays a large part in the success of this venture. **Ms. Keith** inquired about the Fort Lauderdale Boat Show. Mr. Larkin answered that the Waterbus will not be present during the show and added that that was part of the calculations. **Ms. Keith** asked for clarification as to the temporary nature of tonight's vote. Mr. Hart answered that at the moment it was for a six-month period to give the staff time to find a permanent solution. **Chair Terrill** disagreed, adding that nothing tangent has been defined. **Ms. Keith** noted that the memorandum in the backup indicates this issue is being considered on a six-month basis. Mr. Larkin added that this location was not presented as a permanent location. **Chair Terrill** was present at the Commission meeting where this item was discussed and he felt the plan was not limited to six months and that the term limit is open to the Board. **Ms. Keith** added that she will have a lot more concerns if this site is permanent and she is less willing to vote tonight if that is the case.

**Mr. Tilbrook** advised he was a fan of the Waterbus, noting it creates a special feel for our city. He agrees with Ms. Keith's comments regarding public access in our flagship marina. Based upon the limited information available **Mr. Tilbrook** suggested the question about the site being permanent be tabled for next month's discussion. He inquired about the history of this marina, how it was constructed, how it was funded. He remembers there being public access and use restrictions. Mr. Hart answered that we have submerged land lease restrictions that must be adhered to. **Mr. Tilbrook** inquired if public grant funds were used for the building of this site. Mr. Hart answered there were some grant funds used and revenue bonds were issued, adding that there are use restrictions from the grant monies. **Mr. Tilbrook's** concern is that this is a recreational use only marina as per the terms of the funding, and that will open up legal issues for the City if it is designated commercial use. There are other commercial enterprises that would like to locate at this marina and that could happen if this restriction is lifted on a permanent basis. Also he recalled a first come first served restriction that would have to be removed as well. With all that said, he noted he does support this site on a temporary basis. He advised that at one time he had served on the Beach Redevelopment Advisory Board, and the Las Olas Marina played an important role in the redevelopment of the Central Beach area. He inquired if a determination has been made that using this marina for commercial use is consistent with the City's redevelopment plan. Mr. Larkin answered that that issue has not been specifically addressed because this is a temporary solution to deal with an immediate problem. **Mr. Tilbrook** noted that he supports this site for a temporary basis but added that before it is considered as a permanent location the questions about redevelopment, zoning, and funding terms needs to be thoroughly addressed.

Mayor Naugle entered the room and was recognized by **Chair Terrill**.

**Mr. Duncan** advised that he supports the Waterbus system but added that this system is funded by the county and federal government. He feels all avenues with Broward County should be investigated first. It was his opinion that if a 90-day lease was successfully negotiated with Bahia Mar then a 6-month extension was not an unreasonable request and could probably be had on a temporary basis. **Mr. Duncan** is concerned about the lost revenue from turning away recreational vehicles.

**Mr. Hessmann** agrees with the Board as a whole that the Waterbus service is needed and will grow. He advised that when the Las Olas Bridge was built the mayor at the time, John Russell, along with Governor Leroy Collins provided that the land would always remain in the hands of the public. **Mr. Hessmann** opined that the Waterbus turned down the lease at the port because of the expense, adding that working with the county is always a long, drawn-out process. In the past six months **Mr. Hessmann** has spoken to many boat captains when Plaza Las Olas was trying to get a toehold on the property. In particular Captain Ches Palmer on the DNATALIN2 (with a crew of 9), who spends a lot of time in the marina, felt there are limited options in the Fort Lauderdale area but if he has problems in this marina he will not hesitate to relocate to another county. **Mr. Hessmann** advised that a big issue in the marina would be the disturbance factor a commercial enterprise would bring in. **Mr. Hessmann** remembers when the state fined the city over \$200,000 for an outside dock issue snafu, adding that Tallahassee has not been friendly to our county. It is his opinion that this issue should be shelved at this time because of all the unknown factors involved and he announced his intention to not approve anything on this issue tonight.

**Chair Terrill** asked staff if any of the figures used to come up with the estimates for the discount bulk rate have been reduced to writing, noting that there is nothing in the backup material for the Board to study. Mr. Larkin answered that the process was negotiated through notes he had gathered. From the City's perspective he was negotiating from the standpoint of what the potential revenue loss would be, what the impact on the surcharge was, and the boat show revenue, among other things. Mr. Larkin knew the number he needed to achieve to make the City whole and worked towards that number. The tentative agreement that was reached between staff and the Waterbus reflected an agreement that would protect the City's revenue stream. Chair **Terrill** inquired if the negotiation with the Waterbus and/or the discussions held with the Mayor and the City Commission was put in writing as it relates to the rate or the criteria involved. Mr. Larkin noted that the criteria was expressed to the City Commission, which was the revenue we otherwise would make from Pier 6, what the lost revenue would be looking at the annual occupancy and revenue stream from each slip, what revenue would be lost by having potentially seven fewer slips in operation during part of the

year and 16 fewer in operation during the sea grass season, and what the potential loss would be from the discount on the surcharge. The negotiations were verbal. **Chair Terrill** inquired if the figures were based on a full year. Mr. Larkin noted he made the assumptions based on a full year. **Chair Terrill** noted that as the 6-month lease as proposed will not start until the winter season and will end before the summer season, all of the financial impact will be felt during our high season. Mr. Larkin advised that he had factored that point into the figure. **Chair Terrill** inquired if the figures reflected potential growth. Mr. Larkin answered that his agreement gave the City revenue in excess of what it had previously achieved, but he did not forecast next year's growth percentage. **Mr. Hessmann** noted that the port had already approached the Waterbus with a location that was turned down for economic reasons. He wonders what the possibility is of the new deal being pursued also be rejected by the Waterbus. Mr. Larkin answered that there has never been any indication made to him that the port made an offer that was turned down by Waterbus.

**Mr. Zorovich** noted that Broward County has a large financial stake in the success of the Waterbus. He wondered when it had become our responsibility to find a solution.

**Ms. Keith** noted that the date for Waterbus to leave Bahia Mar originally was June 30<sup>th</sup>. She inquired as to what the extended date was. Mr. Larkin noted that a 90-day extension had been offered. **Ms. Keith** inquired where the Waterbus vessels will be housed during FLIBS. Mr. Hart answered that the Waterbus has to make their own alternate arrangements. **Ms. Keith** inquired if the staffing numbers would increase at Las Olas Marina if Waterbus is allowed to dock there. Mr. Hart answered that it would not change our staffing.

**Mr. Tilbrook** inquired about the submerged land lease for the New River Marina, asking if there was a commercial use restriction on it. Mr. Hart answered that commercial use is allowed at that location. **Mr. Tilbrook** commented that rather than use a marina that does not have a commercial use restriction on it to accommodate these vessels, we're using a marina that has a recreational only use restriction and trying to change it. Mr. Hart noted that the New River lease had been modified to allow commercial use. At one time the Las Olas Marina had a commercial use provision that was taken away. Mr. Hart recalls about 18 years ago when two tour boats were docked



there. The commercial use was taken away because the new marina was implemented and at the time of construction the tour boats were not there, had been moved to the New River because of parking problems. In addition Mr. Hart noted that grant fund restrictions can be modified.

**Mr. Duncan** noted that six months ago this Board tried to find a solution for other commercial boats just for pick up and drop off and were told flatly the lease cannot be modified. Mr. Hart answered that if that was purported it was incorrect.

**Ms. Keith's** understanding of the request for modification of the submerged land lease that was submitted by staff was that it was not temporary in nature but a permanent modification. Mr. Hart acknowledged that her statement was correct. In essence commercial vessels will be allowed to be on this site once the change has been approved.

**Mr. Tilbrook** feels that the permanent modification is a significant policy perspective that warrants a separate discussion. The future use of this marina will be dramatically affected. **Mr. Tilbrook** requested that this aspect of the discussion be placed on the next agenda before any modifications are accepted. **Ms. Keith** noted that if the item is delayed, staff has already put the proposal in motion and it may be approved. If the Board desires to stop the application for modification, it needs to deal with it now.

**Mr. Hessmann** noted that this brings in the issue of having an expanded marina before full thought has been given to the subject.

**Ms. Brochu** inquired why Broward County was not involved at this point. Mr. Hart did not have that answer and noted that it was a good question.

**Chair Terrill** added that a lot of work has been done by the county on behalf of the Waterbus, noting that he has attended such meetings. Great effort has been made to make it work, with adequate cost projections. **Chair Terrill** inquired of Mr. Bekoff if those costs and requirements had been made known to him. Mr. Bekoff answered that he has not had such a discussion, in fact has not had one discussion with anybody from the port. **Chair Terrill** reported that the assistant to the director of the port, via telephone, has told him that he has shared the costs and requirements with Mr. Bekoff. That

information pertains to what would be required for security, the requirements of the lease, and the requirements of fencing. The question he did not have is what steps would be taken by the County Commissioners, whether an RFP would be published or a grant would be sought, and the time line projection. Mr. Larkin added that he also had a conversation with the assistant port director just prior to the County Commission meeting where the item was due for consideration, and that person indicated that the port was working on a proposal and that that proposal would be presented to Mr. Bekoff. It was not conveyed to Mr. Larkin that any proposal had been conveyed at that time. **Chair Terrill** asked Mr. Beckoff to come forward and address the Board.

Mr. Bekoff advised the Board that as of today he has not received any offer from the port, and therefore has no offer to consider or decline. He further advised that he had never spoken to the assistant port director. Mr. Bekoff further advised that he had contacted Port Everglades last September about the possibility of having a facility there. The two people that were in attendance at that meeting were Pam Madison and Ken Crowder. At that meeting space and access was discussed. The only discussion that had a price attached to it at that point was when Ms. Madison asked the port director what their revenue was for berth 1A. His response was that it historically had been zero. As recently as this afternoon Mr. Bekoff tried to contact Rob Hernandez, the assistant to the County Administrator, and was told he was not available. Mr. Bekoff sent an e-mail to Roger Desjarles which basically reiterated that no port offer or information has been received. Mr. Beckoff did not receive a response. Before Phil Allen, the acting port director, went on vacation meetings were held and a recommendation was prepared as to what the process might entail. Mr. Bekoff has never seen the recommendation. He advised that the boat show dockage will be the same as it has always been and that is that FLIBS provided dockage 10 days before the show, during the show, and a few days following the show on the floating barge. The only other comment is use of the river. As far as he is concerned the city dockage on the New River as far as his business goes is totally unusable. There is a serious parking issue. At shift changes there up to 64 persons that need to be accommodated as well as maintenance people. In addition security is all but non existent on the New River for vessels of this nature. He acknowledged that wherever the vessels are docked people that own property in the area are not going to be happy. It is Mr. Bekoff's understanding through conversations with Nicki Grossman and her staff, as

well as the general manager of the Convention Center, that the port is going to use the land for something else in the very near future. They are desirous of improving the east end of that property to be used as a facility for the convention center. Mr. Bekoff said if the port doesn't come up with a proposal and the city doesn't have room for him, he's out of business in Fort Lauderdale. He noted that Bahia Mar charges \$1500 a month per boat, which is not economically feasible. He added that Broward County, aside from staff time, has not spent one cent on the Waterbus accommodation problem. Funding has come from state funds and federal funds. Mr. Bekoff praised Mr. Larkin for his work in analyzing the situation and coming up with a financial figure that is workable.

**Chair Terrill** opened the meeting to the public for comments and questions.

Mr. Bob Ross addressed the Board. Mr. Ross has been a licensed yacht broker in the city of Fort Lauderdale for 32 years. He is in agreement that changing the land lease to allow commercial use will open up a lot of problems and that that marina was not designed for that use. He used to rent piers at Bahia Mar. When his lease expired he contacted Mr. Hart about the possibility of securing 10 year-round slips at the Las Olas Marina. Mr. Hart's reply was Las Olas Marina is for public dockage and we are taking no commercial leases.

**Chair Terrill** closed the public portion and encouraged the Board to continue deliberations. It is Chair Terrill's opinion that the backup material was insufficient. He made phone calls and contacted six marinas and boat yards within the city and spoke directly to the owners, general managers or director of operations: Bradford Marine, Marina Bay, Jackson Marine, Lauderdale Marine Center, Lauderdale Marina, and Pier 17 (formerly Summerfields). Five of the six contacted marinas had not heard from the applicant. Pier 17 had just entered an agreement to dock four boats at their facility, but had space for 16 boats and could accommodate a 6-month lease or longer.

**Mr. Hessmann** reiterated that this Board does not have enough information and that the county should get more involved.

**Mr. McLaughlin** agreed with Mr. Hessmann. He remembers trying several times for commercial use at Las Olas Marina and was told no commercial boats were allowed without heavy changes. He feels pick up and drop off activity would be a better use then the storing of vessels. Although some other marinas have spots open, they are further up the river and less convenient. He advised that a brand new marina being built next to the Lauderdale Yacht Center has commercial use.

Using the Internet, **Mr. Duncan** accessed the City of Fort Lauderdale's website for t marine facilities and found the dockage rates for the Las Olas Marina. He produced a spread sheet, which he passed out to Board members, that outlined revenue by season.

**Mr. Tilbrook** concurred with the concerns about the loss of public access to the docks. He believes it is the primary purpose of this Board to protect public access and use. He was disappointed that the decision was made to eliminate the recreation use restriction on the submerged land lease without any discussion before this Board and without a determination by the City Commission. A significant policy decision of this magnitude warrants extensive discussion and consideration. Even if the lease is modified the City and this Board need to determine the policy of how these boat slips will be utilized. Once again he asked that that item be put on the next agenda for a complete and informed discussion.

**Ms. Keith** inquired how many parking spaces at Las Olas Marina are dedicated to patrons renting slips. Mr. Hart answered 87+. She asked if 16 slips were dedicated to the Waterbus, how many parking spaces would be reserved for them. Mr. Hart answered one per slip at least, with the possibility of more depending on slip management; however, the water taxi will be utilizing seven slips with more than one boat per slip (16 vessels) causing a parking dilemma. **Ms. Keith** is concerned that the site is considered the City's signature marina and doesn't wish to damage that image. She also considers the Waterbus a signature business that needs our assistance. Both are very important to the city. She does not see this being a short-term 6-month situation. She is not encouraged that the port will provide any help with this problem as the land is too valuable. She also feels strongly that changing the submerged land lease permanently is not advisable to deal

with a temporary solution. The decision to change the lease was premature and done before direction was made by either the City Commission or this Board. It is unfair to give the Waterbus priority over other commercial operators in the city. **Ms. Keith** has grave concerns about reducing the dock space at the signature marina for commercial use. She is adamant that the City does not lose the Waterbus service, citing problems for tourists and the City's reputation. Other space must be found even if it is not convenient to the operation of the Waterbus service. If the City is inclined to do a temporary 6-month lease to accommodate the Waterbus, she would suggest that the permit request for the alternation of the submerged land lease be worded such that it is clear it is a temporary change. Without a deadline it will be too easy to keep on extending the lease to the detriment of the marina and the tourists.

**Ms. Brochu** reiterated that there is not enough information to act on this very important issue. She inquired if the old Somerfield marina, although not as convenient, could be utilized at this time.

**Mr. Baker** reiterated that more information is needed before an informed decision can be reached.

**Mr. Zorovich** agreed and noted his key concern is the loss of slips for the public. He believes we would be taking a serious risk in allowing commercial vessels to use the site. It is his opinion that if this change is made, this Board will be here three years from now discussing how to undo it.

**Mr. Schulze** understands Mr. Beckhoff wanting to stay in a centrally located area. He commended the chairman for exploring and locating 6 other private options as an alternative to a governmental solution.

**Chair Terrill** expressed his concern that the financial estimates do not reflect the true costs to the City. He is also concerned with the statement that the Waterbus may need to explore the option of relocating to another city because of the costs of operating here. It is his opinion that the business is very important to this City and the City should encourage the Waterbus to remain, noting that there is not one document in the packet that supports the need for the City to give special consideration.

**Mr. Duncan** is concerned that this deal will go forward, adding that it sounds like staff has already committed itself to the project. He expressed his concern that the modification of the lease was undertaken without direction from this Board.

**Mr. Hessmann** agreed, adding that staff should have presented the change to this Board for comment and approval. He noted that this is the first time he can remember where staff pushed forward with a project without consultation.

**Mr. Schulze** noted he was upset and bothered by the fact that this Board was cut out of the loop on this modification decision.

**Ms. Keith** asked for staff's recommendation on the action this Board is to take tonight. Mr. Larkin answered that staff's recommendation is to choose to endorse the Las Olas Marina site, stating that staff has negotiated an arrangement that will permit the City to recoup any potential lost revenue from having the Waterbus at that site, and they have found a location in the marina that minimizes commercial contact and disruption to public vessels. Mr. Hart added that if the Board would study the work done on the advantages and disadvantages of other sites, and listen to Mr. Beckoff's comments, they would agree. It is Mr. Hart's opinion that the lease modification will go forward and will be amended by September and he suggested the Marine Advisory Board let their preference be known because time is running out. As far as there having to be a policy with regard to what types of commercial uses can be located there, Mr. Hart noted that each applicant will have to be approved by this Board on an individual basis. It is not his opinion that policy needs to be addressed.

**Mr. Hessmann** inquired as to the questions the West Palm office sent back on the application for modification. Mr. Larkin commented on the fact that the modification went out before approval from the Board. He read from the memo that went to the City Commission for their June 21<sup>st</sup> meeting, noting it was underlined for emphasis: The City did submit the formal request for modification on June 14<sup>th</sup> understanding that if the City Commission does not support use of this site by the Waterbus that request can be withdrawn." He added that because of the fact that there is a 90-day period at minimum and because staff was bumping up against the June 30<sup>th</sup>

expiration of the current Waterbus lease and the resulting 90-day extension, Mr. Larkin felt staff needed to get that clock turning. If the City Commission wants the application withdrawn, it can direct that that be done. He explained that the modification was done in a thoughtful manner with discussion with the City Manager and a determination that the process could be started and stopped if the City Commission so desired. Mr. Larkin added that he has not had an opportunity to see the letter from the West Palm office, nor has he had a conversation with Mr. Hart to gain insight as to what the questions/problems with the application might be. He was told that, as sometimes happens, they responded back with some questions. Mr. Hart added that there were quite a few questions but he did not have the letter with him.

Mr. Hessmann made a motion that the City Commission refuse acceptance of the Las Olas Marina site until further information is gained that will totally answer all the concerns brought up at tonight's meeting. Mr. Zorovich seconded the motion.

**Discussion: Ms. Keith** is concerned that because there is no August meeting, this item will not come back to this Board in a time to make recommendations to the City Commission that can be acted upon. She said she could not support that motion because of this fact. **Mr. Tilbrook** agreed, saying time is an issue. He noted that this Board is not actually denying or approving anything tonight, but merely requesting the City Commission take an action. He inquired if it was possible to hold a special meeting in two weeks to discuss this issue further. He also expressed concern over the permanent modification of the submerged land lease and the ultimate use of this marina in the future. He suggested a second motion be made to ask staff to revise the application to reflect it is a temporary application only. **Mr. Hessmann** commented that the time element is not this Board's fault.

Chair Terrill called the question. A Vote was taken and the motion passed with eight yes votes and two nay votes: Ms. Keith and Mr. Tilbrook.

## **VI. Discussion on Kite Surfing Regulations of the Public Beach . Marine Advisory Board**

Mr. Hart advised that he and **Mr. Hessmann** had planned to take a closer look at this problem by visiting the site, but as of this date they have not been

able to get that done. It was noted that this item was not appropriately before this Board, and that the beach is under the jurisdiction of the Parks, Beaches, and Recreation Advisory Board which makes policy regarding the uses and activities on the beach. Mr. Hart noted that it could be argued that this activity is not restricted in the Boating Exclusion Zone established 100 yards off shore, and added that there are definitions in Chapter 8-170 that include this type of craft. In speaking to the Marine Police they don't feel the definitions are strong enough to enforce and that the City Attorneys should review and redefine some of the definitions. Mr. Larkin contacted the city Attorney's Office and they in turn reported they felt kite surfing is adequately covered by the current definition of sail powered watercraft. Mr. Hart added that Mr. Ballou made a good point in that surfers don't have a designated area by code that allows surfing on the beach. A lifeguarded, controlled area should be designated for surfers.

Mr. Schulze left the meeting at 9:15 P.M.

Mr. Ballou, captain of the Ocean Lifeguards addressed the Board. The unguarded section north of Sunrise is a problem area that must his guards respond to on occasion. When the lifeguards see a kite surfer out of control or in danger, they assist. The lifeguards keep the kite surfers out of the swimming area. There is no surfing allowed on the Fort Lauderdale guarded beaches, and due to politics and funding for guards there are none at the commonly known surf areas. The system has 15 towers with tower one located just north of the Yankee Clipper hotel and the last tower located in front of Birch State Park.

Ms. Voet inquired as to what happens after the lifeguards are off duty. Mr. Ballou noted that the beach is guarded between the hours of 9:45 A.M. and 5:00 P.M. During those hours no surf boards are allowed. Mr. Larkin noted that the code mentions that sail-powered watercraft and wave-powered watercraft are allowed only in areas designated by the City Manager. At this time he cannot define an area that was designated by the City Manager for this function, so from a legal perspective there is no area where these activities are permitted. From a practical perspective all one needs to do is go to the beach after 5:00 P.M. It is his opinion that if the kite surfing issue is opened up, it will have a direct effect on the surfers.



**Mr. Hessmann** noted that there used to be signs designating areas for these activities. He added that kite surfers go out beyond the swimming buoy and appear to respect the swimming markers. He suggested the City designate, with proper signage, part of the north beach area as a surfing area, and designate a small area where the kite surfers may safely launch their craft. He added that the kite surfing concessionaire is not of concern to him because he runs a safe operation.

**Mr. Duncan** inquired if a lifeguard will be needed at these areas if they are designated for this purpose. **Mr. Hessmann** noted it could be a surf-at-your-own-risk area. **Mr. Duncan** has a concern that we would then be sanctioning a water activity without protection.

At this point **Ms. Keith** noticed a quorum was not present and the meeting was stopped due to a lack of a quorum.

## **VII. Adjournment**

**Chair Terrill** adjourned the meeting at 9:30 P.M.

Respectfully submitted,

Jody E. Lebel  
Court Reporter/Public Notary

Marine Advisory Board

July 7, 2005

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